

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Nadi Sakir Findikli)	
Serial No.:	10/604,394)	
Filing Date:	July 17, 2003)	Confirmation No. 1393
Attorney Docket:	U02-0216.40)	
Art Unit:	2683)	
Examiner:	Stephen M. D'Agosta)	
Title:	SYSTEM AND METHOD OF SOFTWARE)	
	TRANSFER BETWEEN A MOBILE PHONE AND A)	
	MOBILE PHONE ACCESSORY)	

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

AMENDMENT AND RESPONSE UNDER 37 C.F.R § 1.111

Sir:

This paper is being filed in response to the Office Action dated March 20, 2006, having a reply due date of June 20, 2006. Applicants request reconsideration of the application in view of the amendments and remarks herein. Applicants believe no additional fee is due at this time. If Applicants are mistaken in this belief, you are authorized to charge any additional fees to deposit account 13-4365.

Remarks begin on page 2.

REMARKS

The Examiner has rejected claims 1-58 under 35 USC 102(b) as being anticipated by Blow (WO99/53621).

It is Applicant's belief that the Examiner has extended the teachings of Blow beyond the text of the reference. The present invention provides additional steps, processes, and detail that is not contemplated by Blow. For instance, Blow does not teach the complexities involved in the recited claim element of: *"exchanging data between the mobile phone accessory, the data pertaining to software resident on the mobile phone accessory and the ability of the mobile phone to download and execute the software, wherein the data is used to determine what software to transfer from the mobile phone accessory to the mobile phone"*.

The clause above is included in each independent claim of the present invention. It is directed toward determining whether the mobile phone would even be capable of interacting with the accessory assuming the software could subsequently be downloaded and verified (authenticated). This includes things like whether the mobile phone has the underlying software and hardware requirements necessary to execute the incoming software associated with the accessory. Support for this interpretation is found in paragraphs [0010], [0012], and [0015] of the present application.

The Examiner has admittedly "interpreted" the 'VALID ACCESSORY' block of Figure 2, step 204 in Blow as requiring a check of either the characteristics or capabilities of the phone. Blow, however, is quite clear that 'valid accessory' means only one which authenticates properly (see, p. 7, ln. 30). The Examiner's interpretation clearly exceeds the scope of Blow's teachings and is an improper extension of the plain language of Blow.

Blow simply does not describe any processes or methods that determine a mobile phone's capabilities prior to a download. Blow assumes that the mobile phone is capable and focuses its efforts on authenticating or verifying permission for a transfer. Even in the authentication aspect, Blow is not as thorough as the present invention since authentication in Blow is in one direction while the authentication claimed by the present invention is bi-directional meaning that the phone is verified as a receiver of software and the accessory is verified as a transfer-er of software.

Blow's teachings stop once the software has been downloaded error free to the mobile phone. There is no process of verifying that the downloaded software itself is licensed for use on the mobile phone, certified for use on the mobile phone (e.g., on a list of approved software), or been tampered with from its original incarnation. The Examiner relies too heavily on "Official Notice" as a means for rejecting the claim language without attempting to deal with the specifics involved in verifying licenses, certifications, and tampering. The Examiner has understated the significance and relevance of software piracy and the efforts to ensure that pirated software can not be executed to control the interaction between the mobile phone and accessory.

The Examiner contradicts himself somewhat by stating, again via Official Notice, that licenses are well known and are required prior to downloading or operating software. In the next paragraph, however, the Examiner states it would be obvious to modify Blow to verify that the transferred software is licensed. First the Examiner is implying that Blow does not need to worry about licenses and then he says Blow could be modified to check for licenses.

The Examiner similarly invokes 'Official Notice' to reject the encryption claims of the present invention.

In sum, Blow teaches downloading software from an accessory to a mobile phone once an optional authentication of the accessory occurs. Verification of the downloaded software involves checking for errors only to the extent that all of the bytes arrived in the proper order such that the software can be executed by the mobile phone. There is no attempt to verify the software itself as being authorized for operation on the mobile phone.

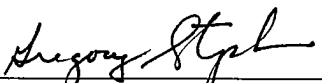
The present invention is much more complex in that both the mobile phone and the accessory are mandatorily authenticated prior to a download. Determinations are made whether the mobile phone can is capable of even accommodating the accessory. Software is downloaded (encryption is optional) to the mobile phone where it is checked against licenses, certifications, and tampering prior to execution.

Thus, Blow fails to teach all of the recited elements and steps of the present invention. Applicant requests reconsideration and withdrawal of the 35 USC 102(b) rejection of claims 1-58.

Respectfully submitted,

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